

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Petition for Declaratory Ruling by the Inmate
Calling Services Providers Task Force

RM-8181

DOCKET FILE

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PETITION FOR PARTIAL RECONSIDERATION OR STAY

The Bell Atlantic telephone companies, BellSouth Telecommunications, the NYNEX telephone companies and Pacific Bell and Nevada Bell respectfully urge the Commission to reconsider and to stay the effectiveness of its Declaratory Ruling that inmate-only payphones are CPE¹ until the effective date of the regulations to be adopted under new section 276 added by the Telecommunications Act of 1996. This stay is appropriate to avoid requiring exchange carriers to undertake duplicative compliance activities within a short period of time — first to comply with the Declaratory Ruling as to inmate payphones and later to comply with the rules implementing section 276 as to all payphones. In addition, it will be difficult for exchange carriers industry to comply with the Declaratory Ruling in the time required by that Order.

The Declaratory Ruling requires exchange carriers to reclassify inmate-only payphones as unregulated customer premises equipment and to make the required

¹ *In the Matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, Declaratory Ruling, RM-8181 (rel. February 20, 1996) ("Declaratory Ruling").*

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changes to their accounts by September 2.² Exchange carriers would also be required to establish and implement new accounting codes, time reporting codes and changes to their cost allocation formulæ by that date. New part 64 cost pools would also need to be developed. These are not small tasks. Because all payphones are now regulated, there has never been any reason for exchange carriers to distinguish between inmate-only payphones and all other payphones in their records or books.³ The only way for most carriers to identify inmate-only payphones would be a manual review of its records and, in some cases, a physical inspection of the payphone customer's facility.⁴

Section 276 of the Telecommunications Act requires the Commission to adopt regulations that prevent a Bell company from subsidizing its payphone business with revenues from its telephone exchange service or exchange access operations⁵ and preclude them from recovering the costs of that business through interstate access charges.⁶ These regulations must be adopted within nine months of the date of enactment of the Act, or by November 8, 1996. Section 276 will likely require the Commission to treat all Bell payphones as CPE. To comply with this section and the rules to be written by the Commission, the Bell companies will be required to make all the accounting

² *Id.* ¶ 35. The affected accounts include 47 C.F.R. §§ 32.2351, 32.3100, 32.4340, 32.6351, 32.6561, 32.7210 and 32.7250.

³ There is no rule that requires exchange carriers to distinguish between inmate-only payphones and other payphones.

⁴ A carrier cannot assume that all payphones in correctional institutions are inmate-only phones because such institutions often have payphones for the use of staff or guests.

⁵ Section 276(a)(1).

⁶ Section 276(b)(1)(B).

changes described above for inmate-only payphones for *all* their payphones, making completely superfluous the efforts they undertook to comply with the Declaratory Ruling.

Carriers should be required to do this reclassification only once — when it is required to comply with section 276. The public interest would not be served by making them go through the two-step process that will result if the Commission does not change the effective date of its Declaratory Ruling. There is simply no reason for the carriers to incur the added costs. Because of the short time between the two steps, the Commission would not have any opportunity to audit the carriers or otherwise to determine whether they complied with the requirements of the Declaratory Ruling.

Moreover, it would be more efficient for the carriers if they are able to deal with all their payphones at one time. Under these circumstances, the carriers would be able to use existing codes and change the underlying intelligence in their accounting systems to reclassify account codes, time reporting codes and the like from regulated to unregulated.

In addition, for an exchange carrier to be able to continue to provide inmate-only payphones as unregulated CPE, it must have an effective tariff for new unbundled network services — payphone access lines — to allow it to connect these stations to the telephone network. Under the Commission's rules, technical information about this new service must generally be disclosed twelve months before the service is introduced, but in no event may the disclosure be made less than six months before the

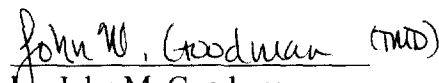
introduction of the new service.⁷ These requirements make a September implementation date impossible.

Finally, the Commission recognized that the Declaratory Ruling “leave[s] a number of issues unresolved” and that these issues would be resolved “in an upcoming proceeding on generally unbundling payphones.”⁸ The Commission has not yet begun this proceeding, and it seems most unlikely that any such proceeding will be completed in time for the exchange carrier industry to implement new rules by September 2.

For the reasons stated, the Commission should delay the effectiveness of its Declaratory Ruling and not require carriers to comply with it until the rules to be adopted under section 276 are effective.

Respectfully submitted,

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⁷ *Amendment to Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, 3 FCC Rcd 1150, 1164-65 (1988).

⁸ *Declaratory Ruling* ¶ 27.

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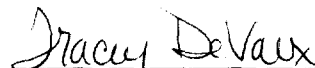
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Dated: March 21, 1996

CERTIFICATE OF SERVICE

I, Tracey DeVaux, hereby certify that on this 21st day of March, 1996 a copy of the foregoing "Petition for Partial Reconsideration or Stay" was sent by first class mail, postage prepaid, to the parties on the attached list.



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